

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x  
XL SPECIALTY INSURANCE COMPANY,

Plaintiff,

v.

JOHN D. AGOGLIA, et al.,

Defendants.  
-----x

USDC SDNY  
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DATE FILED: 6/27/08

No. 08-CV-3821 (GEL)

**STIPULATION OF PARTIAL  
DISCONTINUANCE WITH  
PREJUDICE**

Plaintiff XL Specialty Insurance Company ("XL") and Defendant Robert C. Trosten ("Trosten"), by and through their undersigned attorneys, jointly file this Stipulation of Partial Discontinuance with Prejudice.

**WHEREAS**, certain individuals have sought coverage under the "XL Policy" for the "Underlying Matters," as those terms are defined in the Complaint for Declaratory Judgment (the "Complaint") filed by XL on April 22, 2008;

**WHEREAS**, Trosten has acknowledged that he presently is not seeking, and will not seek in the future, coverage under the XL Policy for the Underlying Matters or for any other demand, action, proceeding or investigation, including, but not limited to, any demand, action, proceeding or investigation based upon, arising out of, or involving the facts and circumstances underlying or alleged in any of the Underlying Matters; and

**WHEREAS**, no party to this action is an infant, incompetent or person for whom a committee has been appointed.

NOW THEREFORE IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, who have been duly authorized by XL and Trosten to enter into this Stipulation as follows:

1. Trosten waives formal service of process under F.R.Civ.P. Rule 4 and acknowledges service and receipt of XL's Summons and Complaint on June 24, 2008;

2. Trosten relinquishes, waives and forever releases any and all claims that he may have had, have now or have in the future for coverage or payment under the XL Policy for the Underlying Matters or for any other demand, action, proceeding or investigation, including, but not limited to, any matter based upon, arising out of, or involving the facts and circumstances underlying or alleged in any of the Underlying Matters;

3. Trosten agrees that he is not now and will not ever seek coverage or payment under the XL Policy for any demand, action, proceeding or investigation, including, but not limited to, any matter based upon, arising out of, or involving the facts and circumstances underlying or alleged in any of the Underlying Matters;

4. XL's cause of action asserted in the Complaint are discontinued with prejudice as against Trosten only; and

5. Each party shall bear its or his respective attorneys' fees and costs incurred in connection with this action and any other coverage litigation between the parties.

Dated: New York, New York  
June 25, 2008

MORVILLO, ABRAMOWITZ, GRAND,  
IASON, ANELLO & BOHRER, P.C.

By: *Robert C. Trosten*  
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*Attorneys for Plaintiff*  
XL Specialty Insurance Company

IT SO ORDERED:

*Richard E. Gel*  
U.S.D.J.

*6/27/08*